

# **Title Guaranty Division Board Meeting Minutes**

**December 4, 2007**

**Board Members Present:**

Deborah Petersen (by phone)  
Walter Murphy  
Mitchell Taylor  
Pat Schneider  
Surasee Rodari

**Staff Members Present:**

Loyd Ogle, TGD Director  
Matt White, TGD Deputy Director  
Lon Kobernusz, IFA Accountant  
Becky Petersen, TGD Director of  
Field Operations  
Linda Berg, TGD Business Development  
Director  
Susan Mock, TGD Administrative Assistant

**Others Present:**

Bill Blue – American Abstract Company  
Bob McCloney – United Land Title Company

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## **Call to Order**

Mr. Taylor called the December 4, 2007, meeting of the Title Guaranty Board of Directors to order at 10:38 a.m. Mr. Taylor noted that the Board is engaging in a telephonic conference because of the convenience to a Board member and that a personal Board meeting is not possible.

## **Review & Approval of Board Meeting Minutes**

The Board discussed the October 2, 2007, meeting minutes.

Motion: On a motion by Mr. Rodari, seconded by Ms. Schneider, the Board unanimously approved the October 2, 2007, Board meeting minutes.

## **Review of Financial Reports, Transfer of Funds to IFA's Housing Programs, and Approval of Financial Reports**

Mr. Ogle delivered the financial report. TGD is opposite the industry in the fall and winter; TGD's business picks up as things slow down in the field. TGD's revenue has been ticking upward. With the November financials, TGD has \$425,000 to transfer to IFA's housing programs. For most people in the field, business is down, and TGD is seeing fallout in the subprime market and a general downtick in real estate activity. But TGD has made some good gains in the past year in pulling back some of the lenders and market share.

Ms. Deborah Petersen asked what the basis was for adding a claim and reducing a claim. Mr. Ogle said that they budget to pay a couple hundred thousand dollars in claims, but they are not seeing anywhere near that level of claim activity. Mr. White explained that on the accounting side, they estimate for the next fiscal year how many claims they will get. Then they annualize it and take it out of the financials. It is

reconciled based on actual claims. Mr. Taylor asked if there was a claim form. Mr. White replied that a claim is usually a letter from the attorney or bank. In response to Mr. Taylor's question whether it would be helpful to have a claim form, Mr. White said it is not common in the industry to have one, but he can look into it.

Motion: On a motion by Ms. Deborah Petersen, seconded by Ms. Schneider, the Board unanimously approved the Financial Report and the transfer of \$425,000 to IFA's housing programs.

### **Director's Report**

Mr. Ogle gave the director's report. TGD continues to make slow progress with a new reinsurance treaty. There is a letter from the Iowa insurance commissioner saying that TGD can enter into this type of agreement. The biggest issue TGD has is reinsurance of its Closing Protection Letter Program, and some commercial transactions are so big that a Closing Protection Letter from TGD is not sufficient. They want reinsurance from an independent with reserves of at least \$50 million. TGD is negotiating with one reinsurer for reinsurance for a Closing Protection Letter.

TGD is continuing to see a shift in production to the field. TGD's production staff is being shifted to other areas, such as compliance, underwriting, and marketing as more production is being moved into the field.

TGD continues to see active use of the Mortgage Release Program.

Work around the politics of waivers continues. Mr. Ogle said he would address the Board of Governors later that day about the issue.

One of the things TGD is working with members of the ILTA and the Bar on was to launch through TGD's Web site a mechanism so anyone can find abstractors that will produce preforeclosure title search work on behalf of Fannie Mae. Fannie Mae capped their costs to \$200 and identified an out-of-state vendor, Land America in Pennsylvania. This is not a TGD title product, but it is important that Iowa abstractors and attorneys stay in these transactions. TGD worked with Fannie Mae and got their agreement to allow any foreclosure attorney to search TGD's Web site and find a participating member who will provide that search product per Fannie Mae's standards.

Mr. Ogle reminded Board members that, at the last Board meeting, there was a split vote on the direction of staff to provide a draft of administrative rules regarding the waiver process. Part of the concern was that some members wanted to see how the pending litigation on one waiver came out before staff got very far in the process. Mr. Ogle e-mailed a proposed draft of rules. For the most part, the waiver rules do not change the process. The IFA Board will change how their waivers are handled, where they will be handled by the director of IFA and taken to their Board. TGD's rules do not parallel that. TGD's draft parallels the process they have now—an application is sent to the director, the Board and various parties are notified, it is scheduled as part of the agenda at an upcoming Board meeting, the Board makes its determination, staff then writes a proposed written ruling, and that is brought back to the Board for approval or modification. There is in the draft a first effort to define the three areas that have not

been defined through administrative rule: hardship, availability of Title Guaranty, and public interest. The draft is a starting point for discussion.

Mr. Ogle updated the Board on legislative activity. He and Mr. White submitted five bill drafts for consideration. The first is in the area of regulation of closing companies. Currently in Iowa, there is no regulation of closing companies. The second is licensing of abstractors. It is a better political dynamic if that bill were introduced by ILTA, but TGD supports licensing. The third involves smaller judgment liens that automatically attach to property. As a practical matter, those judgments are so small in amount that no one is going to go through the expense of actually collecting on them. TGD is proposing language that says if the judgment lien is below a certain dollar amount, it does not attach to the property unless there is an affirmative effort to make it attach. One issue is how much can be made retroactive versus going forward. The fourth involves the Closing Protection Letter Program. The legislation for that program was written too tightly. The Closing Protection Letter coverage currently can only be given to a transaction where the participating attorney or participating abstractor is closing the loan. There are areas in the state where independent closing companies close Title Guaranty transactions based on a participating abstractor's work and attorney's title opinion. Those abstractors and attorneys do not offer closing services. As a result, Closing Protection Letter coverage cannot be given to closing companies. The proposed change would open up the Closing Protection Letter Program and allow Title Guaranty to provide Closing Protection Letter coverage as long as there is a Title Guaranty Certificate issued on that transaction. The fifth has to do with the Mortgage Release Program. The law was changed to say that the maximum amount that can be released can be set by the Board. Staff has not recommended a raise to the Board because the standard of liability TGD is held to on the Mortgage Release Program is a strict liability standard. TGD wants to change the standard of liability to a negligence standard. If that bill passes, then staff will recommend to the Board that they raise the maximum amount significantly.

The Board discussed the Fannie Mae foreclosure product further. Mr. Murphy expressed concern over having a state agency funneling the foreclosure business. Mr. Blue said that if TGD had not intervened, he would have lost the Fannie Mae business.

The Board took a break at 11:41 a.m. and reconvened at 11:46 a.m.

### **Deputy Director's Report**

Mr. White delivered the deputy director's report. Mr. White said the Mortgage Release Program continues to function as planned.

Mr. White also discussed claims. Since July 1, TGD has received 22 claims. Of those, he has satisfied or denied 15, and seven are still pending. The biggest number of claims is taxes, followed by closing instructions, prior mortgages, prior judgments, and problems with defective mortgages. In this fiscal year, TGD has paid on two claims that have come in since July 1, 2007. One was for taxes. The other is pending, but Mr. White had to pay some money to stop the sheriff's sale.

### **Business Development Director's Report**

Ms. Berg gave the business development director's report. She delivered a summary of the TGD Annual Conference that was held November 15. In December, more training will be kicked off. The newsletter is at the printer.

### **Field Operation Director's Report**

Ms. Becky Petersen delivered the business development director's report. This is the first year of conducting field audits. They have been well received by the participating attorneys and abstractors. The Webinar tool is being used for training. A fifth location has been added to the springtime Regional Academies. A session will be offered in Council Bluffs.

### **Title Guaranty Manual and Resolution**

Mr. Ogle presented updates and changes to the Title Guaranty Manual, along with a resolution regarding the changes, and the Board discussed the changes.

Motion: On a motion by Ms. Schneider, seconded by Mr. Murphy, the Board unanimously approved the changes to the Title Guaranty Manual, as well as the resolution adopting the changes.

### **Next Meeting Date and Time**

The next Board meeting will be March 4, 2008, at 10:30 a.m.

### **Adjournment**

Motion: On a motion by Ms. Deborah Petersen, seconded by Mr. Murphy, the Board unanimously voted to adjourn at 12:01 p.m.

Dated this March 4, 2008,

Respectively submitted:

Approved as to form:

Loyd W. Ogle, Director  
Title Guaranty Division

Mitch Taylor, Chair  
Title Guaranty Division